

APPENDIX N

PRECONSTRUCTION CULTURAL RESOURCE IDENTIFICATION PLAN

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IDENTIFICATION AND MITIGATION OF KNOWN AND ANTICIPATED IMPACTS-PRECONSTRUCTION CULTURAL RESOURCE IDENTIFICATION PLAN

As noted above, the conceptual designs for the various alternatives conflict directly and indirectly with numerous known and potential cultural resources. However, as previously stated, while the locations of proposed well pads, access roads, pipelines, and other surface facilities (**Figures 2.21 – 2.6-1**) have not been individually inspected, they have been conceptually identified considering topography, land features, vegetation, and operational constraints. Onsite inspections of individual well pads, access roads, pipelines, and other surface facility locations by the BLM and operator personnel would occur during the permitting process for individual wells or ROWs, and site-specific adjustments to location and orientation would be made at that time. The individual APD and ROW permitting processes incorporate measures for protecting, documenting, evaluating, and mitigating cultural resources through the Section 106 process, applicable State law, and numerous Federal and State regulations.

This Preconstruction Cultural Resource Identification Plan outlines the procedures for the identification, evaluation, management, monitoring, and mitigation (if necessary) of cultural resources within the WTP Project Area for each disturbance. It also provides guidelines for adherence to findings from studies currently being conducted on dust, TCPs, continuing archaeological research, as well as previous cultural resource recommendations.

Because the nature of the proposed alternatives is conceptual, this plan refers to the entire WTP Project Area. The area of potential effect (APE), however, refers to each specific project component such as well pads, access roads, pipelines, and other surface facilities. Therefore, only those resources within an individual APE would need consideration for identification, monitoring, evaluation, or mitigation of cultural resources. Indirect and cumulative impacts, such as the effect of dust and vibration on rock art, are considered at the level of the entire WTP Project Area.

INVENTORY

Prior to any surface disturbance, all areas within an individual APE would be inventoried for cultural resources. Prior to conducting the field inventory, the archaeological contractor would obtain a project number from the SHPO, conduct a file search for previous cultural resource inventories and previously-documented sites at either the Price Field Office, SHPO, or both, and submit the necessary fieldwork authorization forms. If an area within an individual APE has been previously inventoried and the BLM or SITLA find the existing inventories adequate, no new survey would be required in the area. If unevaluated cultural resources occur in a previously inventoried area, they would be evaluated by the archaeological contractor and eligibility and management recommendations would be provided to the land managing agency.

Numerous procedures and protocols are already established for cultural resource inventories on the BLM and State lands in general (BLM 2002c), and in the Price Field Office specifically (e.g., Spath 1999). The inventory procedures identified in the Cultural Resource Plan for the Ferron Natural Gas Development project (Spath 1999) have been adopted throughout the Price Field Office area. These procedures, with some modification due to the increased size of well pads used for directional drilling, are reiterated below. In most regards, these inventory standards are more stringent than in many other parts of Utah. These standards would be implemented for all cultural resource inventories related to the Proposed Action and its alternatives because most companies, including BBC, already adhere to these standards, which have resulted in a very effective protection record of cultural resources in the WTP Project Area.

Survey Standards and Protocols

- A. Well Pads: At minimum, survey of a 10-acre block, centered on the staked drill location (center stake) would be required for pads containing a single drill hole. Depending on the amount of surface disturbance proposed at drill locations that contain multiple drill holes, a larger area (up to 40 acres) would be surveyed for each down hole. In most instances, surveying this size of an area would allow for identifying cultural resources in the vicinity of a particular location. In many instances, it would also be large enough to allow for avoidance of most sites while keeping the well in the same general location, which may be geologically important.
- B. Other Facilities: A minimum 5-acre area would be surveyed for all other surface facilities. If the surface disturbance exceeds 3 acres, a minimum 10-acre block surrounding the center of the facility would be inventoried for cultural resources. If the surface disturbance of a facility exceeds 5 acres, the inventory area would include the facility disturbance footprint plus a reasonable buffer..
- C. New Roads and Pipelines: A corridor width of 300 feet; 150 feet on either side of the ROW centerline would be inventoried for cultural resources. This corridor width allows for adjustment of the project ROW to easily avoid most cultural resources.
- D. Existing Roads Requiring Extensive Upgrades: Existing roads that would require extensive modifications would be inventoried in a similar fashion to new roads and pipelines.
- E. Regular Maintenance, Reroutes, and Minor Upgrades: New surface disturbances related to maintenance, reroutes, and minor upgrades would be inventoried for cultural resources. Fifty feet on either side of the road center would be surveyed for road maintenance requiring more than blading and small reroutes. Larger reroutes longer than 200 feet would be surveyed to a width of 150 feet on either side of the reroute center. Minor upgrades, such as culverts and drainage control channels would be inventoried based on the extent of the disturbance. At a minimum, a buffer of 100 feet around the maximum area of disturbance would be inventoried for cultural resources.
- F. Inventory Procedures: Cultural resource inventories would follow the guidelines established in the Guidelines for Identifying Cultural Resources (BLM 2002c).
- G. All necessary efforts to avoid eligible cultural resources would be made during the planning phases of a particular undertaking. These efforts include, but are not limited to, rerouting pipelines or road corridors and moving well locations or other facilities to ensure the avoidance of important resources during the design phase.

EVALUATION

All sites identified in an individual APE would be evaluated for eligibility for inclusion on the NRHP. The NRHP criteria for evaluation and procedures for nominating cultural resources to the NRHP are outlined in 36 CFR 60.1 as follows:

The quality of significance in American history, architecture, archaeology, and culture is present in districts, sites, buildings, structures, and objects of State and local importance that possess integrity of location, design, setting, material, workmanship, feeling and association, and that they:

- a) ...are associated with events that have made a significant contribution to the broad patterns of our history; or
- b) ...are associated with the lives of persons significant to our past; or
- c) ...embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic value, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- d) ...have yielded or may be likely to yield information important in prehistory or history.

In addition, 36 CFR 60.4 states those cultural resources that meet the above criteria but have achieved significance within the last 50 years shall not be considered eligible for nomination to the NRHP unless they are integral parts of districts that do meet the criteria, or if they meet additional exceptional criteria outlined therein.

REPORTING, RECOMMENDATIONS, AND AGENCY AND TRIBAL CONSULTATION

Cultural resources reports, specific to APD or ROW applications, would be submitted prior to or at the time these documents are submitted to the land management agencies. Through their archaeological contractor, BBC would initiate and prepare these documents for the land management agency. The cultural resource reports would adhere to the requirements and recommendation specified in the *BLM Cultural Resources Management 8110 and 8120 Manuals* and the *Secretary of the Interior's Standards and Guidelines for Archaeological and Historic Preservation*. As such, the reports would include a description of previous work in the vicinity of the undertaking, a cultural history overview, a summary of the findings of the inventory, eligibility recommendations, and management recommendations. Upon receiving and reviewing the cultural resource reports, the BLM or SITLA would initiate the Section 106 consultation with the SHPO. In addition, as requested by the Ute Tribe, the BLM would send all archaeological reports as they are completed to the Uintah and Ouray Ute Indian Tribe Cultural Rights and Protection Office and a notification to the Ute Business Committee, which would allow the Tribe an opportunity to comment on the cultural report. If the Tribe determines the need for additional consultation, they will request participation in the pre-drill onsite inspections.

CONSTRUCTION MONITORING

Monitoring of construction activities involving surface disturbance serves to verify that recommendations concerning resource avoidance are met, to ensure that cultural resources are properly avoided, and to identify discoveries in areas deemed to have a high potential for containing buried cultural resources. Cultural resource monitoring would be required in areas with high cultural resource densities, areas with high geomorphological potential for containing cultural resources, or as recommended in the approved APD or ROW permit. If a discovery is made during construction monitoring, the Discovery Plan, presented in the following sections would be followed.

DISCOVERY PLAN

In the case that an unanticipated buried cultural resource (referred to hereafter as a discovery) is identified during surface-disturbing activities, the following protocol would be followed to ensure the proper identification, evaluation, and mitigation of adverse impacts to the resource.

Discovery Protocol Overview

In general, all activity within 100 feet of the discovery would cease immediately. Work may not resume until the resource can be identified and evaluated by the archaeological contractor and the appropriate government archaeologist. In direct consultation with the BLM, SITLA or other appropriate surface management agency, SHPO, BBC, and the archaeological contractor would develop an emergency treatment strategy. Efforts would be made to expedite resumption of construction without further adverse impacts to the cultural resource. Briefly, the following six steps must be completed before work can resume in the vicinity of the discovery.

1. Cease all activity within 100 feet of the discovery. Work can continue outside the 100foot buffer if an archaeological monitor is present and has determined that no additional impacts to the discovery would occur.
2. Notification
 - a. If the discovery is on the BLM lands, notify the appropriate BLM Field Office, and SHPO of the discovery within 24 hours.
 - b. If the discovery is on State or private land, notify SITLA and SHPO of the discovery within 24 hours.
3. Site documentation and evaluation by an archaeological consultant, and government representatives, if warranted.
4. Determination of eligibility.
5. Action Plan/Mitigation.
6. Resumption of work upon receipt of written permission from the appropriate land management agency or SHPO.

Mitigation Efforts for Unanticipated Discoveries of Cultural Resources

If unanticipated cultural resources are encountered during the course of surface disturbance, the following procedures shall be followed before work can resume.

1. Determine Extent of Discovery/Site Recordation In order to understand the nature and extent of the discovery, an archaeologist would document the discovery following the BLM guidelines for site documentation as stated in the 8100 manuals. This can include, but is not limited to, documenting exposed artifacts and features; mapping the

extent of artifacts, features, and cultural horizons; and documenting natural and cultural stratigraphy in open trenches or pits.

2. Evaluation of Eligibility

The discovery would be evaluated, based on the eligibility criteria outlined above, to determine if it is a property that is eligible for inclusion on the NRHP. The contract archaeologist would make eligibility recommendations to the appropriate government entity. The government archaeologist would either concur or not concur with the eligibility recommendation. If needed or required, the government archaeologist would consult with the SHPO or seek concurrence on the preliminary eligibility determination. Findings of eligibility can include *ineligible*, *eligible*, and in rare cases, *insignificant data* to make a determination (e.g., *unevaluated*).

- a. If the site is determined to be ineligible for inclusion to the NRHP, and there is SHPO concurrence on this eligibility recommendation, work may resume and no further action need be taken.
- b. If the site is determined to be eligible for inclusion on the NRHP, the appropriate government officials, BBC, and their contractors, would determine an appropriate action plan to mitigate any adverse effects to the resource so work can continue.
- c. If a determination cannot be made based on the data collected during recordation, additional testing may be required to further delineate the nature, extent, and significance of the discovery.

If the site is determined to be eligible for inclusion on the NRHP, then an assessment of the disturbance to the resource would be made. If there is a finding of “no adverse effect,” work may resume after adequate documentation is completed, and BBC or its contractors receive permission to proceed from the appropriate government representative.

If the site is determined to be eligible and there is a finding of “adverse effect” to the resource, then procedures to mitigate the adverse effects must be completed before work can continue. Mitigation efforts would be contingent upon several factors. These include the type and extent of the disturbed resource, the extent of the adverse effect, and whether or not it is possible to avoid any further impact to the resource.

Mitigation efforts can be considered either non-destructive or destructive, and can include:

- a. Collection of additional information from the disturbed portion of the resource using non-destructive methods.
- b. Collection of additional information from undisturbed portions of the resource using non-destructive methods.
- c. Collection of additional information from disturbed portions of the resource using destructive methods.

Non-destructive methods include narrative descriptions, scaled drawings and profiles, mapping, and noninvasive procedures such as photography and the use of remote sensing technologies. Destructive methods include artifact collection, testing, excavation, and the recovery of samples for environmental analysis and dating (e.g., charcoal or soil samples for radiocarbon or macrobotanical analysis). It is recommended that any destructive methods used in mitigation be restricted to areas where adverse effects have occurred.

Unanticipated Discovery of Human Remains and Associated Materials

Human Remains on the BLM Land

A. Discovery Notification

If human remains, remains thought to be human, associated or unassociated funerary objects, or objects of cultural patrimony are discovered, work within 100 feet of the discovery would stop immediately. Verbal notification of the discovery would be made to the BLM and the SHPO by BBC or its contractors immediately. Upon notification, the BLM would notify the appropriate law enforcement authorities, the county coroner, and appropriate Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) coordinator. If the remains are determined to not be of forensic importance, an assessment of the remains would be made.

B. Assessment of the Remains

An in-situ assessment of the remains would be made to determine the cultural affiliation of the remains to aid in determining required actions as defined in a written NAGPRA Plan of Action (POA) prepared by the BLM. The BLM would meet all requirements of NAGPRA for all discoveries of human remains and associated objects in accordance with 43 CFR 10 and BLM IM 2007-002, which allows for reburial of human remains and associated funerary objects excavated on BLM land. All reasonable measures would be taken by the involved parties to resolve issues regarding affiliation and disposition of human remains within 30 days as required by law.

C. Protection of Human Remains

BBC is responsible for the security and protection of human remains during NAGPRA consultations, at least until disposition of the remains is determined.

D. Resumption of Work

Work in the immediate vicinity of the human remains may not resume until after the disposition of the human remains is determined. Permission to proceed would come from the BLM, after consultation with SHPO and appropriate Tribal representatives. This permission can only be given after a written binding agreement is executed between the necessary parties. This agreement adopts a recovery plan for removal, treatment, and disposition of the human remains or associated objects in accordance with 43 CFR Part 10.4(e).

Human Remains on State and Private Land

Treatment of human remains discovered on State or private land would be treated as defined by State law, State of Utah Code Annotated 9-9-401 et. seq., 7-9-704, 9-9-305, 9-8-176. Human remains discovered on lands managed by SITLA would be treated as defined in its Trustees' Board Policy 97-04.

A. Discovery Notification

If human remains, remains thought to be human, associated or unassociated funerary objects, or objects of cultural patrimony are discovered, work within 100 feet of the discovery would stop immediately. BBC, or their contractors, would make notification, either verbal or written, of the discovery to the SITLA, SHPO, and the appropriate law enforcement agency. If the remains are determined to not be of forensic importance, an assessment of the remains would be made.

B. Assessment of the Remains

An in-situ assessment of the remains would be made to determine the cultural affiliation of the remains to aid in determining required actions as defined in a written Action Plan prepared by the SHPO. SHPO would meet all requirements of applicable State and Federal laws for all discoveries of human remains and associated objects on State lands and private property. All reasonable measures would be taken by the involved parties to resolve issues regarding affiliation and disposition of human remains within 30 days as required by law.

C. Protection of Human Remains

BBC is responsible for the security and protection of human remains during consultations if the remains are located on State or private lands.

D. Resumption of Work

Work in the immediate vicinity of the human remains may not resume until after the disposition of the human remains. Permission to proceed would come from the SITLA or SHPO in consultation the appropriate Tribal representatives, depending on property ownership. This permission can only be given after a written binding agreement is executed between the necessary parties. This agreement adopts a recovery plan for removal, treatment, and disposition of the human remains or associated objects. Removal of human remains from State and private lands can only be executed by special permit issued by the SHPO and after consultation with the Native American Remains Committee and affiliated Tribes.